

**ANDERSON TOWNSHIP BOARD OF ZONING APPEALS
DECEMBER 2, 2021**

The Anderson Township Board of Zoning Appeals held its regular monthly meeting, duly called, on December 2, 2021, at 5:30 p.m. at the Anderson Center. Present were the following members:

Jeffrey Nye, Paul Sheckels, John Halpin, Steve Haber, and Paul Sian

Also, present when the meeting was called to order, Brad Bowers, Planner I, P.J. Ginty, Secretary, Ben Yoder, Township Special Counsel, Stefano Vicino, Township Co-Op, Scott Lawrence, Alternate, Amy Richardson, Alternate. A list of citizens in attendance is attached.

Staff was asked to raise their right hand and swear or affirm to the following oath as read by **Mr. Nye**: Do you swear or affirm, to tell the truth, the whole truth and nothing but the truth, so help you God?

Staff replied "yes" to the oath issued by Mr. Nye.

Approval of Agenda

The Agenda for December 2, 2021 was approved by unanimous consent with no objections from the Board.

Approval of Minutes

The Minutes for November 4, 2021 were approved by unanimous consent with no objections from the Board.

Consideration of Case 19-2021 BZA

Mr. Ginty stated that the public hearing is for Case 19-2021 BZA, a conditional use and variance request. The request was filed by Tony Muto, on behalf of Mt. Carmel Farms LLC, property owner of Parcel 500-0081-0033, and zoned "B".

Mr. Ginty stated the applicant is requesting a conditional use and variance request to allow a storage and distribution facility for the storage of trailers, and an 8' high chain link fence where an 8' high solid screen is required, per Article 3.16, C, 4 and Article 3.16, K, 2 of the Anderson Township Zoning Resolution.

Mr. Ginty stated that Case 20: A conditional use request to allow a storage distribution facility for the property for the property located at 8485 Broadwell Road (Book 500, Page 83, Parcels 2 & 3), per Article 3.16, C, 4 of the Anderson Township Zoning Resolution.

Mr. Ginty stated for Case 19-2021 BZA the applicant is operating a storage and distribution facility by storing trailers on the property. The area of the trailer storage is approximately 117,807 SF and is enclosed by an 8' high, chain link fence where an 8' high solid screen is required. The storage area is accessed by two gravel driveways on Broadwell Road. According to the applicant, the trailers are brought over from Fast Track It located at 8585 Broadwell Road and stored on the property.

Mr. Ginty stated that the applicant provided a revised site plan showing both gravel driveways on the property in question.

Mr. Ginty stated for Case 20-2021 BZA, the applicant is operating a storage and distribution facility by storing trailers on the property. The area of the trailer storage is approximately 195,000 SF. The storage area is accessed through a driveway connecting the property to 8485 Broadwell Road. According to the applicant, the trailers are brought from Fast Track It located at 8485 Broadwell Road and stored on the property. There is also the storage of materials and equipment on the property not related to the Fast Track It facility.

Mr. Ginty stated the history of the property for Case 19-2021 BZA. He stated the property owner purchased the property in 2003. In 2015, the property owner leased a portion of the property to Duke Energy to perform utility work in the area. In March 2021, staff received a complaint regarding a neighboring property owned by Evans Landscaping. During the inspection of the neighboring property Township staff noticed that trailers were being stored on the property in question.

Mr. Ginty stated on June 1, 2021 staff notified the property owner of the violation as there is no zoning certificate on file for the storage of trailers. On July 14, 2021, the property owner notified Township staff that they will prepare a Conditional Use and Variance request to the Board of Zoning Appeals.

Mr. Ginty stated On November 12, 2021, the applicant submitted a revised site plan and requested that Case 19-2021 BZA be continued to the February 3, 2022 BZA meeting to allow for the applicant to develop a plan of action.

Mr. Ginty stated On November 20, 2021, the applicant withdrew their request for a continuance. On November 22, 2021, the applicant submitted a revised letter that addressed some of the concerns from the November 4, 2021 BZA meeting. In this submittal, the applicant states *"the Outside Storage is visible on its west border and either an eight-foot-high solid fence and/or a wall of foliage needs to be installed to comply with Article 3.16, K, 2."* However, no further details were provided on the screening or the paving of driveways, nor was a landscape plan submitted.

Mr. Ginty stated the history of the property for Case 20-2021 BZA. The property owner purchased the property in 2007. In August 2020, Township staff, along with a representative from Evans, inspected the property in question. In September 2020, Township staff asked for more information about the property, including the operations, amount of time the trailers have been on the property, and the material of the driveway and impervious surfaces. In January 2021, Evans submitted a site plan showing the trailer storage area, at that time staff still needed more information regarding the location and setbacks of the trailers. In March 2021, staff received a revised site plan showing the property but not the setback of the trailer storage to the property line to the southeast. In August 2021, staff received a complete site plan showing the setback of the trailers to the neighboring residence district. In September 2021, township staff notified Evans that conditional use approval is needed through the BZA.

Mr. Ginty stated in October 2021, an application was submitted for an incorrect property, township staff decided to continue the case to the December 2nd, 2021, BZA meeting to allow the applicant to submit a full application and so that Case 19-2021 BZA and Case 20-2021 BZA could be heard together.

Mr. Ginty stated the findings for Case 19-2021 BZA:

Mr. Ginty stated, to authorize by the grant of a special zoning certificate after public hearing, the Board of Zoning Appeals shall make a finding that the proposed conditional use is appropriate in the location proposed. The finding shall be based upon the general considerations set forth in Article 2.12, D, 8, a as well as the designated specific criteria for specific uses of the Industrial Development District contained in Article 3.16, F. The Board shall also consider the compatibility of such uses with surrounding uses and the effect of such uses upon the health, safety, and morals of the community.

Mr. Ginty stated conditional use findings based on general considerations in Article 2.12, D, 8, a of the zoning resolution.

Mr. Ginty stated: Spirit and Intent: The proposed use and development may comply with the spirit and intention of the Zoning Resolution and with District purposes. The existing Storage and Distribution Facility is consistent with neighboring Industrial properties to the north and west. However, the storage area is visible from the property as the area is not properly screened with a fence or dense row of vegetation.

Mr. Ginty stated: No Adverse Effect: The storage and distribution facility may have an adverse effect upon adjacent property, or the public health, safety, and general welfare of the public. The storage area is located more than 500' from Mt. Carmel and Broadwell Road, however the area is not properly screened with a fence or vegetation and dust may reach neighboring properties due to the two gravel driveway entrances.

Mr. Ginty stated: Protection of Public Services: The storage and distribution facility respects natural, scenic, and historic features of significant public interest. In addition to trailer storage, the property is also used for agriculture.

Mr. Ginty stated: Consistent with Adopted Township Plans: the conditional use is in accordance with the Light Industry Land Use category of the Township's Comprehensive Plan and the ANCOR Area Master Plan which encourages: *"Smaller scale industrial uses such as warehouses, storage, limited manufacturing, research and development, transit terminals and wholesaling activities in enclosed facilities without offensive emissions or nuisance."*

PERFORMANCE STANDARDS

Mr. Ginty asked the board if they want him to read the findings for Case 19-2021 BZA or not since they were covered last month.

Mr. Nye replied it's not necessary to restate the findings that were reviewed last month.

Mr. Ginty stated should the Board approve the conditional use for Case 19-2021 BZA for the Storage and Distribution Facility, staff recommends the following conditions:

- Existing trees located on the property shall remain so long as the Storage and Distribution Facility is in operation.
- A solid vegetative screen shall be installed around the existing storage area.
- Ingress and egress from the site shall only be permitted on the driveway on the eastern portion of the property.
- The two gravel driveway entrances from Broadwell Road shall be paved in accordance with Article 5.3, D, 3, c, ii of the Zoning Resolution

Mr. Ginty stated that the applicant asked staff to make available all exhibits that were submitted with the application.

Mr. Ginty stated the applicant provided testimony that he asked be presented, which the applicant will discuss.

Mr. Nye asked for clarification on where the property line is.

Mr. Ginty replied and clarified.

Mr. Tony Muto, PO Box 8493 Cincinnati, Ohio 45208, stated that he represents the two appellants. He stated that he'd like to present the two cases separately.

Mr. Nye replied that's fine, but the board will discuss them together.

Mr. Muto stated on Case 19, he wants to present introductory comments, call on a witness, and then provide further information and a conclusion with a plan of action to address concerns of residents who testified at last month's meeting.

Mr. Muto stated that the concerns last meeting resolved around 3 issues:

- Dust on the 553' driveway used by Fast Track It.
- Contradicted the testimony regarding the number of trucks traveling between the properties
- Visibility of trailers from adjoining property liens.

Mr. Muto stated that at the last meeting, the Board asked the appellant to come back and provide and hear the cases together. He stated that the only common ground between the two cases is the storage of trailers. He stated the board asked for an updated site plan and a plan of action. He stated Mr. Ginty presented the revised site plan with the western driveway included. He stated the board asked for videos which he has here to present. He stated he has a handout to provide that includes a plan of action for the board which will address issues heard at the last meeting. He stated that Mr. Halpin made a comment regarding the opening of the gate, and while you may be able to squeeze through it, they are trying to protect the inventory inside the trailers.

Mr. Muto stated there was confusion about when the trailers are being stored here, and **Mr. Fry** testified that storage began on Nov 2020. He stated this is significant because of complaints that the township received from nearby residents. He stated he disagrees with the staff report. He stated he wants to address the 3 concerns brought up by the applicants. The first being the number of trucks and dust. **Mr. Muto** called **Mr. Beiland** as a witness.

Mr. Gerald Bieland 710 Osia Court, Maysville, Kentucky 41056.

Mr. Muto asked who **Mr. Bieland's** employer is.

Mr. Bieland replied Evans.

Mr. Muto asked if **Mr. Bieland** is Involved with management.

Mr. Bieland replied yes.

Mr. Muto asked if he is familiar with property on corner of Broadwell Road and Mt. Carmel Road.

Mr. Bieland replied yes.

Mr. Muto asked if he visits the property on a regular basis.

Mr. Bieland replied every Monday he visits all the Evans properties.

Mr. Yoder asked the applicant to speak into the microphone.

Mr. Muto asked **Mr. Bieland** if he was asked to assist with testimony this evening.

Mr. Bieland replied that **Jim Bailey** asked him to assist this evening.

Mr. Muto asked **Mr. Bieland** what he was asked to do.

Mr. Bieland replied to collect pictures and video, and stated he was not notified until Monday.

Mr. Muto asked what did you do with that request.

Mr. Bieland replied that he put up a trail camera that has a motion sensor and and takes a photograph every time someone goes up and down the road.

Mr. Muto asked if camera captures video of traffic coming in and out of the driveway.

Mr. Bieland replied that the camera takes still shots.

Mr. Muto asked will it capture a still shot of every vehicle that comes down the driveway.

Mr. Bieland replied yes.

Mr. Muto asked Mr. Bieland to describe what he observed over the past three days with Fast Track It trailers.

Mr. Bieland replied that yesterday when he checked the SD card, it happened that a truck came down, unlocked the gate and he came back out. The truck drivers name was Russ. He informed him that he is the main driver that goes in there to get trailers. He said he asked him how often he does this. He replied it's based on inventory but he was only in there 1 or 2 times this week. He stated he had been in there 2 times that day.

Mr. Muto asked since Monday, how many fast tack trips were on driveway.

Mr. Bieland replied four. He stated that the trucks came in empty and left with trailer

Mr. Muto asked Mr. Bieland to comment on the speed of those vehicles coming down driveway.

Mr. Bieland replied Russ and told him you can't go out of first gear because his cab doesn't have an air ride meaning that if he goes any faster it would bounce him out of the seat.

Mr. Muto provided Exhibits S13-S14 to the board and asked Mr. Bieland to describe them.

Mr. Bieland described where the photos were taken from.

Mr. Muto asked if tractor trailer is leaving after hooking up trailer.

Mr. Bieland replied correct.

Mr. Muto asked if he saw any dust.

Mr. Bieland replied no.

Mr. Muto asked about the next photograph.

Mr. Bieland replied that this picture shows the truck coming in empty.

Mr. Muto asked if there was any dust.

Mr. Bieland replied no.

Mr. Muto asked Mr. Bieland to describe the next photo.

Mr. Bieland replied that this is a swift truck and he is coming out, second picture (not provided to the Board) is the trailer.

Mr. Muto asked if these 3 photographs represent the trucks that came out that day.

Mr. Muto asked if he took a video.

Mr. Bieland replied yes.

Mr. Muto asked how he took the video.

Mr. Bieland replied I used my phone in the truck.

Mr. Muto asked how many videos did he take.

Mr. Bieland replied two videos.

Mr. Ginty showed the videos.

Mr. Bieland described the video.

Mr. Muto asked if the video was shot in slow motion.

Mr. Bieland replied no, the video was shot in real time.

Mr. Muto asked if there was any dust.

Mr. Bieland replied no sir.

Mr. Muto asked where were you standing when shot the video.

Mr. Bieland replied in the corner next to the gate.

Mr. Muto asked anytime dust.

Mr. Bieland replied no sir.

Mr. Ginty showed the next video.

Mr. Bieland described the video of a truck leaving a gravel driveway.

Mr. Muto asked if he's near Broadwell Road when shooting this video.

Mr. Bieland described where he was.

Mr. Muto asked if the video was in real time or slow motion.

Mr. Bieland replied the video was in real time. He stated that he goes slow because he doesn't want to bounce around.

Mr. Muto asked if he observed any dust at the time.

Mr. Bieland replied no.

Mr. Muto asked why there was a sheriff there.

Mr. Bieland stated the sheriff sits there a lot to make sure semis are not in the wrong place and pulls the illegal trucks over by Senco.

Mr. Muto asked if the sheriff is there because of Fast Track It.

Mr. Bieland replied no.

Mr. Muto asked who Russ is.

Mr. Bieland replied that he is the driver who goes in and gets the trailers from the storage area.

Mr. Muto asked Mr. Bieland what Russ told you about number of trips

Mr. Bieland replied that Russ told him that it varies but this week he had only been in a few times. He stated even on a busy week it's eight to ten times. He stated that he doesn't go up and down the drive more than 18 times in 2 months

Mr. Muto asked if other vehicles besides the sheriff and fast truck it use it? Do any other county vehicles use the driveway.

Mr. Bieland replied yes and that County vehicles were there this morning where they keep their stuff sometimes. He said that as long as the Evans trucks can get in and out, they're more then welcome to use it.

Mr. Muto asked if the driveway serves a purpose to the county and township.

Mr. Bieland replied yes and there are people who go in and out of there at night sometimes.

Mr. Muto asked if Mr. Bieland saw any dust.

Mr. Bieland replied no.

Mr. Muto asked if the trucks travel at slow speed.

Mr. Bieland replied yes.

Mr. Muto asked about the number of trips. He stated that trucks go onto the property eight to ten times a week.

Mr. Bieland replied yes.

Mr. Muto asked about the miles per hour of the vehicles. Do the vehicles travel 5 miles an hour.

Mr. Bieland replied yes, low speed.

Mr. Halpin asked what the weather was like during the time.

Mr. Bieland replied it was misty and wet.

Mr. Halpin asked if the gravel was wet.

Mr. Bieland replied it was damp.

Mr. Halpin asked if it creates dust when it's dry.

Mr. Bieland replied it depends on the speed of the trucks.

Mr. Muto stated on 11/22, he made another submission. He stated this focuses entirely on the visibility of the enclosed area from adjoining property lines. He asked Mr. Ginty to begin with Exhibit S-1.

Mr. Ginty showed Exhibit S-1.

Mr. Muto stated explained Exhibit S-1. He replied there is a Senco representative here tonight to discuss this exhibit as well.

Mr. Nye asked where he's standing taking this picture.

Mr. Muto explained. He asked Mr. Ginty to show S-2. He explained the photo shown in Exhibit S-2. He stated that Mr. Rutherford testified that there is no barrier. Mr. Muto stated as you can see there is a barrier.

Mr. Nye asked where the property line is.

Mr. Muto replied the shrubs are located on property 8500 Broadwell Rd.

Mr. Sheckels asked who bushhogged the area in the photo.

Mr. Muto replied he does not know who cleared the vegetation. He stated the zoning resolution does not clarify whose property the vegetation needs to be located on.

Mr. Muto asked to see Exhibit S-3. He stated there are several residents in this map and explained the exhibit and described the owners.

Mr. Sheckels asked for clarification on the owner of one of the properties.

Mr. Muto replied they are owned by affiliates of his client.

Mr. Nye asked if they are rented by his client.

Mr. Muto replied yes.

Mr. Muto asked to see S-4 and described the houses in the photo. He asked to see Exhibit S-5 and described houses in the photo. He asked to see Exhibit S-6 and stated that this is the view from the property line on the south side of Broadwell looking towards the trailer area. He asked Mr. Ginty to show Exhibits S-7 – S-12 and explained the photos.

Mr. Muto stated that he wants to explain his Plan of Action. He stated they want to address dust, screening, number of trailers and speed of trailers and handed the plan of action to the board and staff.

Mr. Muto presented Exhibit S-16 which is the plan of action that the applicant provided. He stated, on the screening issue, they are proposing to install a row of 8' trees or other foliage on the west side of the outside storage area. He stated there is no visibility of the trucks. He stated the appellant agreed to only using the west driveway and add gravel to it. He stated during the dry season, the appellant would keep the driveway wet with water trucks. He stated that they would limit the truck speed to eliminate dust being kicked up. He stated they would limit the number of trucks that use the driveway on a weekly basis. He stated they would limit the days of the week and hours of the day that trucks use the facility. He stated that is the plan of action.

Mr. Muto stated his summary. He stated the owner is making a reasonable request, as it's used by a commercial operation in an industrial zoning district in an area designated to industry by the township. He stated that the evidence submitted by residents does not hold any proof. He referred back to the videos where there was no dust being kicked up. He stated the only information he saw about dust were photographs in the last meeting and it was an Evans landscaping truck on Broadwell Road. He stated the appellant provided testimony regarding the absence of dust since the driveway are compacted. He stated the appellant provided testimony about the number of trucks. He stated concerns about the number of trucks is all speculation. He discussed the visibility of the trucks on the north side of Broadwell Road.

He stated that they disagree with every part of the staff report. He stated that they don't disagree with foliage all the way around the facility and the closure of the western driveway. He stated the western driveway was put into place to provide ingress egress to the facility. He stated that the staff report talks about paving the driveways which is not needed because there is no dust. He stated that the plan of action addresses all the concerns.

Mr. Sheckels asked about S-4 and S-7. He asked if they own 8549 Broadwell Road.

Mr. Muto replied yes and 8587 Broadwell Road.

Mr. Sheckels stated he visited the site and shown in S-4 and saw several trucks.

Mr. Muto stated he doesn't disagree with him.

Mr. Sheckels asked about page 2 and read a portion of the application. Mr. Sheckels described his visit to the site where he could see the trailers can be seen from.

Mr. Muto stated that this is being addressed, they proposed foliage to the extent that there is visibility.

Mr. Sheckels stated there is clearly a view.

Mr. Muto reread the application and stated they're acknowledging the possibility.

Mr. Halpin asked about the driveways being partially paved. He asked if they would pave 25' of driveway.

Mr. Muto asked what it solves?

Mr. Halpin stated it would keep dust towards the back and not by the street.

Mr. Muto stated that there is no dust, and they're proposing watering trucks in the dry season.

Mr. Haber asked to see a picture in the presentation taken from the southeast. Mr. Haber stated this picture is taken near the eastern driveway where it intersects Broadwell. He stated his point at the last meeting was that the trees would lose their leaves, and the trailers will be visible. He stated there are significant gaps in the trees where the trailers can be seen. He asked if the trailers are visible from any of the property lines.

Mr. Muto stated you can see the trailers, but the zoning resolution talks about seeing the trailers from an adjacent property line.

Mr. Haber stated no he is reading from his application. He read a portion of the submitted application.

Mr. Muto stated that you can't see the trailers in S-6. He asked to see Exhibit 8.

Mr. Haber stated the picture is taken from the western driveway and asked if that's correct.

Mr. Muto replied and provided clarification to where the two properties were taken.

Mr. Haber asked again about where the photos were taken from.

Mr. Muto referred back to S-6.

Mr. Haber stated he drove all of Broadwell Road and saw the trailers from several spots on Broadwell Road.

Mr. Jason Gordon, 4349 Mt. Carmel Rd, stated he monitored the site. He said it takes 2-4 days for the gravel to dry. He stated the testimony from Mr. Rutherford was that Evans pulled down trees on his own property. He stated that it was interesting the applicant said they would remove smaller trees and then replace with a similar size. He stated that he has concerns with the staff recommended conditions. He stated that the condition regarding the compliance of the vehicles as it would be too much on staff to monitor this. He stated he took some pictures today from Broadwell Road to the north and to the east. He explained the pictures that were provided to the board. He explained the videos where you can see dust coming from the truck which was submitted to the Ohio EPA.

Mr. Nye asked when the video is from.

Mr. Gordon replied it's from August. He stated he doesn't think it's fair for the residences across the street to have the dust, noise, and traffic.

Mr. Halpin asked if partial pavement would help.

Mr. Gordon replied he does not as the dust carries for a while, and there's a business there. He stated there was confusion about whether or not the hearing would occur which may be why Mr. Rutherford is not here.

Ms. Kathy Burger, 7850 Bilby Ln, stated she is here in opposition of the request. She stated she's lived here for 35 years and travels Broadwell daily. He stated she has seen that there is dust that travels with their trucks. She stated that a letter was sent from the applicant that the meeting would be continued but whenever she called Mr. Ginty, he stated that the meeting would still be tonight. She stated this is the first year that corn was planted, and it's always been soy beans in the past. She stated there are residents on Mr. Carmel Rd and there's no testimony or evidence from that area.

Mr. Nye stated that Mr. Gordon submitted photos from that location and asked if they are consistent with her experience.

Ms. Burger replied yes.

Mr. Jack Gordon, 4302 Mr. Carmel Rd, stated that he is the gentleman who built 8500 Broadwell Rd for Mr. Rutherford. He stated the reason he is not here tonight is because of the letter that was sent. He stated that he caught Evans cutting all the trees down when he built a road. He stated that if they started putting trucks back there in 2020, that's at least 8 years. He stated that prior to him building the road, there was a lot of dust and there still is.

Mr. Halpin asked if the L shaped road is the one, he's talking about or the one on the property line.

Mr. Gordon replied that the western road, which has been there since before 2012 which had nothing to do with the parking lot that was put into place.

Mr. Sheckels asked about Evans bushhogging.

Mr. Gordon replied and stated where he saw them bushhogging.

Mr. Sian asked when he sold the building.

Mr. Gordon stated he sold the business in 2012 who operated the business longer, then in 2016-17 he sold the building.

Mr. Nye asked about him receiving a letter about the meeting.

Mr. Gordon replied no.

Mr. Sian asked his address.

Mr. Gordon replied 4203 Mt. Carmel Rd. and described where he lives. He stated that one of the testimony was to have Evans "self-police" which is not possible.

Mr. Nye asked about notification for the meeting.

Mr. Ginty replied and stated per the Ohio Revised Code, we mail notification to property owners within 200'. He stated that the applicant originally provided a letter stating that a continuance request to February was made.

Mr. Ginty stated that the Township never sent a letter stating that the meeting would be continued to the February meeting. He stated we only mailed notice to owners required by the Ohio Revised Code.

Mr. Nye asked Ms. Burger if they received a letter from the applicant.

Ms. Burger stated that Ms. Peggy Johnston received a letter from the applicant.

Ms. Peggy Johnston, 8517 Broadwell Road, stated that she received a letter saying that the request was put off until February. She provided the letter to the board.

Mr. Nye asked what staff includes in notification to owners.

Mr. Ginty replied that a notice stating the date, time, and reason for the meeting is sent out, along with the most recent applicant submittal.

Ms. Johnston stated that Mr. Muto asked about multiple drivers who move the trailers. She stated she tried to take videos of a truck but they slowed down when they noticed what she was doing. She stated she had questions about how the property is used for agriculture if it's supposed to be for industry. She asked about Exhibit S-6 and asked how many of the larger trees have been taken out in the last month because many are gone. She stated that Mr. Muto

mentioned the dust as Mr. Evans was willing to put water trucks on site, and in the past that only lasted about 2 weeks.

Mr. Halpin asked about the proposed plan of action and how she felt about it.

Ms. Johnston stated that she's not against the business, but she wishes the applicant would provide more effort to alleviate concerns of the neighbors. She stated that her windows can't be open due to dust.

Mr. Mark Sober, 8450 Broadwell Road, stated he is with Senco, and he has new information. He stated the history of the Senco/Kyocera business and how long he's been there. He stated that he is happy as a member of Senco and Anderson Township. He stated that as of last month they got zoning approval for an addition to the Broadwell plant and explained the expansion. He asked Mr. Ginty to show the Aerial view of the property and he explained where Senco/Kyocera's expansion will be. He explained the 24000 SF addition. He stated they are changing the look from industrial to a campus look and they are redoing the parking lot. He explained this is a dramatic change to the property. He stated that he has pictures taken from the Kyocera/Senco property. He referred to the staff report where it states, "surrounding properties could suffer a substantial detriment" and stated that he agrees with this. He referred to the recommended conditions. He stated regarding the fencing, Senco is proposing a solid 14.5' tall fence placed on the same elevation as the trucks. He stated that they want the screen to be a foot higher than the trailers they are trying to screen. He asked that the board be specific in what the board conditions. He stated that the board put a timeline as to when the fence is installed. He referred to the condition regarding the operability of the trucks and asked that the board be very specific for how they want them to look. He said that he has concerns about what could be in the trucks and it could be unregulated substances. He stated that there are places in our zoning resolution that allows for fences higher than 8'. He stated that his request for a 14.5' is logical and based on the zoning resolution. He provided clarification on the misinterpretation on the letter.

Mr. Sian asked if Mr. Sober is concerned with the aesthetics.

Mr. Sober stated they do not want to look at it.

Mr. Sian asked if they have concerns about dust.

Mr. Sober provided clarification on the dust concerns and stated that they will have more concerns after they complete the addition.

Mr. Muto stated that the case in front of this board is a permit for a tenant of the property owner, for the tenant to store trailers. He stated that the comments that have been heard are not about the case at hand but about Doug Evans and this case is not about Mr. Evans or Evans Landscaping. He stated he wants to focus on what's relevant to the case. He stated that his fear is that the board's position will be clouded by the testimony heard. He stated that the board has the power to place conditions on the property which are to be enforced by staff. He discussed the photos that were taken by Mr. Gordon. He stated that the board can strike a compromise

between what they're requesting and the concerns of the residents. He stated he disagrees with the recommended conditions and stated that they would cost hundreds of thousands of dollars.

Mr. Halpin asked which recommended staff Mr. Muto is disputing.

Mr. Muto stated the condition about a solid screen on every side of the storage area shouldn't be required because they're not visible. He stated the condition about using the western driveway is only an inconvenience to the owner and would not solve anything. He stated the paving requirement should not be required because there is no dust, and they can use water trucks. He stated the last condition, which he did not read into and would require staff to monitor the property for enforcement.

Mr. Halpin asked about the vegetation screen.

Mr. Muto stated screening should not be required where the trailers cannot be seen.

Mr. Nye asked if the burden of proof is on the applicant.

Mr. Muto replied yes.

Mr. Nye stated that no testimony has been provided by Mr. Muto that the trailers are not visible from the north.

Mr. Muto replied that the property to the north is called Evans Gravel. And that there is no view from the adjoining property to the north.

Mr. Nye stated that he's looking at a photograph taken from 4300 Mt. Carmel where you can see the trailers.

Mr. Muto stated it's a partial view at best from the residences to the south and Mt. Carmel Road as you drive north. He stated that the property at 4300 Mt. Carmel Road is not the adjoining property.

Mr. Nye asked if the trailers can be seen from the adjoining property.

Mr. Muto replied that the trailers can be seen but that the property is owned by Evans and that in the staff report for Case 20-2021 BZA staff acknowledges that a view from an affiliated company is not an issue.

Mr. Halpin asked about the Senco property and if Mr. Muto would agree with their proposal.

Mr. Muto replied that it is a valid, but they chose vegetation. He stated it's at the board's discretion.

Mr. Sian asked about where the property line is located.

Mr. Muto explained where the property line is located

Mr. Sian asked if from the northern part of the Senco building you could see the trailer storage area.

Mr. Muto replied that he did not go to that vantage point. Mr. Muto stated that if there was a 14' fence it may not be visible.

Mr. Sheckels stated he has a question for Mr. Sober. He asked where the new expansion will be for the Senco Building.

Mr. Sober replied and explained the expansion of the Senco Building.

Mr. Ginty stated he wanted to provide clarification on Article 3.16, K, 2 and read the article.

The public hearing was closed at 8:18 p.m.

Deliberation of Case 19-2021 BZA

The board discussed the conditional use and variance requests to allow a storage and distribution facility at Parcel number 500-0081-0033.

Consideration of Case 22-2021 BZA

Mr. Bowers stated that the public hearing is for Case 22-2021 BZA, a variance request. The request was filed by Michelle White property owner of 752 Pickwick Drive and described in book 500, page 111, parcel 105, and zoned "B" Residence.

Mr. Bowers stated the applicant is requesting a variance to allow a 6' high privacy fence in the side yard area where it's only permitted in the rear yard, for the property located at 752 Pickwick Drive.

Mr. Bowers stated that the applicant replaced an existing, non-compliant 6' high wooden privacy fence in the side yard area on the west side of the house. The fence is setback approximately 70' from Pickwick Drive. Article 5.2, A, 9 of the Anderson Township Zoning Resolution states that fences may not exceed four (4) feet in height and must be 75% open in front and side yard areas. Additionally, 6' high privacy fences are only permitted in the rear yard of a property.

Mr. Bowers stated the history of the property. The house was built in 1971 and the current owner purchased the property in August 2020. In April 2021, staff received a complaint about a 4' high privacy fence located in the front yard area along Woodruff Road with a tarp. The property owner notified staff about their intent to apply for a variance to allow a 6' high privacy

fence in the front yard area. Upon application, the property owner removed the tarp from the existing 4' high chain-link fence.

Mr. Bowers stated In June 2021, the BZA heard Case 9-2021 BZA and approved a variance for the 6' high privacy fence in the front yard area along Woodruff Drive. The 6' privacy fence in the side yard area had been installed at that time, however the applicant did not notify staff about this fence, and it was not noticed during staff's inspection of the property for Case 9-2021 BZA.

Mr. Bowers stated in October 2021, staff received a complaint about a 4' high privacy fence located in the side yard with a tarp. After inspecting, staff confirmed that a tarp was added to the 4' high split-rail fence in the side yard, and a 6' privacy fence was constructed in the side yard without a zoning certificate in violation of Article 5.2, A, 9 of the Zoning Resolution.

Mr. Bowers stated staff reached out to the property owner who clarified that the 6' privacy fence in the side yard area was an existing non-compliant fence that had been replaced and submitted a variance application to allow the fence to remain. Upon application, the property owner removed the tarp from the existing 4' high split-rail fence in the side yard area.

Mr. Bowers stated the variance request findings:

Mr. Bowers stated staff is of the opinion that the variance would not be substantial as the fence is approximately 70' from Pickwick Drive and is screened by the existing vegetation on the property. The fence in question is not visible from Woodruff Road because of the existing 6' high privacy fence, approved through Case 9-2021 BZA.

Mr. Bowers stated the essential character of the neighborhood would not be altered and adjoining properties would not suffer a substantial detriment as a result of the variance as the 6' high privacy fence was an existing, non-compliant fence in the side yard area. In addition, the complaint received was regarding a tarp over a 4' high fence, not the fence in question.

Mr. Bowers stated the variance would not adversely affect the delivery of governmental services.

Mr. Bowers stated the property owner's predicament can be feasibly obviated through some other method other than a variance. The 6' privacy fence could be relocated to be in the rear yard area, or a 4' high, 75% open fence could be installed. However, the applicant has stated that the intent of the 6' high privacy fence is to enclose the existing patio and door on the side of the house, which is the only access to the rear yard area from inside the house. Further, if the 6' high privacy fence were to be relocated to the rear yard area, it would sit higher than the existing fence due to topography, which could cause a detriment to adjacent properties.

Casey Terry 4532 Forest Ave Cincinnati, OH 45212, stated that Mr. Bowers did a great job. She stated that the complaint was about another fence and that the tarp was removed. She stated that they did not know that it was a violation to repair an existing fence. She stated that if the fence needed to be moved to the rear yard, the patio would no longer be private and that the

access to the back yard would be cut off. She stated that the topography of the back of the house is higher and would appear higher than it is in the current location.

Bethany Hanson, 759 Pickwick Drive, stated that she is in support of the fence. She stated that the applicant has done a lot to improve their property.

Mr. Nye asked about where her house is located

Ms. Hanson stated that she is on the left-hand side of the map shown.

Eileen Kjeldsen, 768 Pickwick Drive stated that she is in support of the applicant keeping the fence.

The public hearing was closed at 9:39pm

Deliberation of Case 22-2021 BZA

The Board discussed the variance request to allow a 6' high privacy fence in the side yard area where it's only permitted in the rear yard.

Consideration of Case 23-2021 BZA

Mr. Bowers stated that the public hearing is for Case 23-2021 BZA, a variance request. The request was filed by Jan & David Lazarus property owner of 2821 Little Dry Run Road and described in book 500, page 220, parcel 895, and zoned "AA" Residence.

Mr. Bowers stated the applicant is requesting a variance to allow an existing accessory structure to remain in the side yard area where accessory structures are only permitted in the rear yard per Article 5.2, A, 7 of the Anderson Township Zoning Resolution.

Mr. Bowers stated that the applicant constructed a 12' x 16.15' accessory structure in the side yard area without a zoning certificate and is requesting a variance to allow it to remain in the side yard area. The structure is 166.3' from Little Dry Run Road and 21.8' from the Greater Cincinnati Water Works property to the south. Article 5.2, A, 7 of the Anderson Township Zoning Resolution states that accessory structures shall be located in the rear yard area.

Mr. Bowers stated the history of the property. The property was purchased by the current property owner in March 2015. In April 2018, a zoning certificate was issued for the house and multiple covered porches, which was constructed in 2019. In September 2018, a zoning certificate was issued for an 8' x 16' indoor pool in the existing sunroom. In August 2020, a zoning certificate was issued for a pergola addition in the rear yard area to be located on the second story of the house.

Mr. Bowers stated in October 2021, Township Staff received a complaint regarding a shed that was constructed in the front yard area of the property without a zoning certificate. After inspecting, staff determined that the shed was constructed in the side yard area without a

zoning certificate. After reaching out to the property owner, a variance application was submitted requesting that the shed remain in its current location.

Mr. Bowers stated that variance request findings:

Mr. Bowers stated Staff is of the opinion that the variance would not be substantial. The accessory structure is 166' from Little Dry Run Road. The accessory structure is proposed to be screened from the roadway by existing and proposed vegetation as indicated in the applicant's landscaping plan.

Mr. Bowers stated the essential character of the neighborhood would not be altered and adjoining properties would not suffer a substantial detriment as a result of the variance. The structure is approximately 315' from the residence across Little Dry Run Road and approximately 250' from the closest residence to the south. Further, the property adjacent to the accessory structure directly to the south is the Cincinnati Water Works Water Tower.

Mr. Bowers stated the variance would not adversely affect the delivery of governmental services.

Mr. Bowers stated the property owner's predicament could be feasibly obviated through some method other than a variance. The accessory structure could be relocated to be in the rear yard within the area that's enclosed by the existing 6' high privacy fence.

Mr. Bowers stated staff is of the opinion that the spirit and intent behind the zoning requirement would be observed by granting the variance based on the distance from the accessory structure to street and neighboring residences and the existing and proposed landscape screening.

Jan Lazarus, 2821 Little Dry Run, stated that they constructed the shed on the level part of the yard. She stated that placing it in the rear yard would require a lot of grading. She stated that her husband has health issues and that it being in the rear yard would be hard for him to access. She stated that they are adding more landscaping that will screen the shed.

Deliberation of Case 23-2021 BZA

The Board discussed the variance request to allow an existing accessory structure to remain in the side yard area where accessory structures are only permitted in the rear yard per Article 5.2, A, 7 of the Anderson Township Zoning Resolution.

Consideration of Case 20-2021 BZA

Mr. Ginty stated the conditional use findings for Case 20-2021 BZA.

Mr. Ginty stated Spirit and Intent: The proposed use and development complies with the spirit and intention of the Zoning Resolution and with District purposes. The existing Storage and Distribution Facility is consistent with neighboring Industrial properties to the north and west.

Mr. Ginty stated No Adverse Effect: The storage and distribution facility would not have an adverse effect upon adjacent property, or the public health, safety, and general welfare of the public. The storage area is located more than 1,500' from Broadwell Road. The trailer storage area is screened from the neighboring residence district with existing vegetation; however the existing vegetative area is approximately 16' wide on the property in question with the remaining vegetative area located on the neighboring property.

Mr. Ginty stated Protection of Public Services: The storage and distribution facility does not respect natural, scenic, and historic features of significant public interest. According to CAGIS 2020 aerial imagery, parcel 500-83-003 contains 13.5 acres of impervious surface (asphalt drives, compacted dirt/gravel) which represents approximately 79% of the parcel where a minimum of 25% of the parcel shall be landscaped or preserved in its natural state in accordance with Article 3.16, H, 1 of the Zoning Resolution. However, approximately 88% of parcel 500-83-002 is landscaped or preserved in its natural state, therefore meeting this requirement.

Mr. Ginty stated Consistent with Adopted Township Plans: The conditional use is in accordance with the Light Industry Land Use category of the Township's Comprehensive Plan and the ANCOR Area Master Plan which encourages: "Smaller scale industrial uses such as warehouses, storage, limited manufacturing, research and development, transit terminals and wholesaling activities in enclosed facilities without offensive emissions or nuisance."

Mr. Ginty stated the performance standards:

Mr. Ginty stated (1) Modifications by Board of Zoning Appeals: In a case where the topography or other physical features of the tract or its relation to surrounding property may make complete compliance with the requirements of this section unnecessary or undesirable, the Board of Zoning Appeals may modify such requirements to the extent warranted provided the surrounding property and the public welfare are adequately protected. He stated this is not applicable.

Mr. Ginty stated (2) the storage of trailers is not regulated by the U.S. or Ohio Environmental Protection Agency.

Mr. Ginty stated (3) the property does not involve the use of any regulated substances.

Mr. Ginty stated (4) the storage of trailers will not result in vibration or shock.

Mr. Ginty stated (5) the trailer storage area is located approximately 1,500' from Broadwell Road and the nearest residence to the north. The application did not include any information about how long the trailers would be stored on the property and staff has concerns about the

trailers becoming inoperable or deteriorating over time if not maintained or removed in a timely manner.

Mr. Ginty stated (6) the applicant has not provided screening along the northern property line bordering the existing Evans Stoneworks facility. However, there is existing vegetation bordering the Pavestone facility that meets the screening requirements of Article 3.16, K, 2 of the Zoning Resolution. The existing trailer storage area is not visible from any public street.

Mr. Ginty stated (7) the applicant has not proposed any enhancements.

Mr. Ginty stated the variance request findings:

Mr. Ginty stated staff is of the opinion that the variance would not be substantial. The main trailer storage area is located approximately 187' from the northern property line that does not have vegetation. There is also existing vegetation that exceeds the screening requirement along the property line shared with Pavestone.

Mr. Ginty stated the essential character of the neighborhood would not be altered, and surrounding properties could suffer a substantial detriment as a result of the variance. The trailer storage area is not visible from any public street and is located approximately 1,500' from Broadwell Road and the nearest residence to the north. The only property that is not screened properly is owned by the same property owner and is an existing industrial use (Evans Stoneworks).

Mr. Ginty stated the variance would not adversely affect the delivery of governmental services.

Mr. Ginty stated the property owner's predicament can be feasibly obviated through some method other than a variance. The property owner could install an 8' high privacy fence or dense row of foliage to be in compliance with the zoning resolution.

Mr. Ginty stated staff is of the opinion that the spirit and intent behind the zoning requirement would be observed by granting the variance based on the existing vegetative screening along the Pavestone property line, the distance of the storage area to Broadwell Road and the nearest residence to the north, and the existing industrial use of the Evans Stoneworks facility.

Mr. Ginty stated that staff recommended conditions:

- Existing trees and vegetation located on the property shall remain so long as the Storage and Distribution Facility is in operation.
- The trailers located on the property shall remain operable and in good condition.

Mr. Ginty stated he'd be happy to answer any questions.

Mr. Sian asked Mr. Ginty to show the pictures on the screen.

Mr. Ginty went through the pictures that were taken by staff on site. He stated that Mr. Muto provided further pictures, but Mr. Muto will be presenting those.

Mr. Muto stated presented the site plan and explained operations on the site and in the surrounding area. He stated that Fast Track It uses this storage area similarly to how the storage area in Case 19-2021 BZA is used. He stated Fast Track It has excess inventory that is stored on the site. He stated that he does not have any information on the number of trucks that go in and out of the property as Mr. Fry, his witness, left. He asked to see Exhibit F.

Mr. Ginty showed Exhibit F.

Mr. Muto stated this is the view from Broadwell Road and explained the photo. He stated the distance between Broadwell Road and the storage facility is 1,500'. He asked to see Exhibit G. He asked to see Exhibit H which is the eastern perimeter of the property. He stated the existing vegetation should satisfy the zoning requirement. He asked to see Exhibit I and showed dense vegetation. He asked to see Exhibit J and stated that the vegetation properly screens the trailers. He asked to see Exhibit K and mentioned the vegetation that satisfies the zoning requirement. He asked to see Exhibit L which is looking northwest, and he explained the picture. He showed Exhibit M and showed explained the distance to the property in question. He asked Mr. Ginty to present the site plan.

Mr. Ginty showed the site plan.

Mr. Muto restated the request and explained the site plan and existing vegetation around the property. He stated that the view from Pavestone you cannot see the trailers. He explained the visibility of the trailers. He described the adjacent properties, the buildings on them and what they are used for. He stated that they believe they're entitled to the permit because the requirements of the zoning resolution are being met. He stated that he agrees with the staff reports and the recommended staff conditions.

Mr. Nye asked about the site plan and the proposed variance. He asked if a variance is needed for screening along the railroad line.

Mr. Muto replied and stated that he did not look at that location and does not know about the visibility.

Mr. Nye asked Mr. Ginty if a variance is needed for the western property line.

Mr. Ginty stated staff did not inspect the property from that property line.

Mr. Nye asked if a variance could be considered as part of the case for vegetation on that property line.

Mr. Sian asked about the trailers and their contents.

Mr. Muto replied that there are no empty trailers sitting in the trailer storage area.

Mr. Nye referred back to Mr. Fry's testimony last month and recounted what was presented at the November 2nd BZA meeting.

The public hearing was closed at 10:15pm

Deliberation of Case 20-2021 BZA

The board discussed the conditional use and variance requests to allow a storage and distribution facility at Parcel number 8485 Broadwell Road.

Consideration of Case 24-2021 BZA and Case 25-2021 BZA was continued until the January 2021 BZA meeting.

Decision and Journalization of Case 19-2021 BZA and Case 20-2021 BZA were continued until the January 2021 BZA meeting.

Decision and Journalization of Case 22-2021 BZA

Mr. Haber moved, and Mr. Sian seconded to approve Case 22-2021 BZA with one (1) condition.

Vote: 5 Yeas

Decision and Journalization of Case 23-2021 BZA

Mr. Haber moved, and Mr. Sian seconded to approve Case 23-2021 BZA with three (3) conditions.

Vote: 5 Yeas

The next meeting is scheduled for Thursday, January 6th, 2021, at 5:30 p.m. at the Anderson Center.

The meeting was adjourned at 10:25 p.m.

Respectfully submitted,

Jeffrey Nye, Chair



THURSDAY, DECEMBER 2, 2021 AT 5:30 P.M.
ANDERSON CENTER, 7850 FIVE MILE ROAD

PLEASE PRINT - THANK YOU

NAME:

ADDRESS:

[illegible]

